

Dion J. Custis  
Attorney at Law  
400 East 20<sup>th</sup> Street  
Cheyenne, WY 82001  
(307) 638-2442

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

TRAQUEVIS DEWAYNE HARDY,

Defendant.

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Case No. 23-CR-53-S

---

**DEFENDANT’S OBJECTION TO PROPOSED CO-CONSPIRATOR  
STATEMENTS**

---

Defendant hereby objects to the government’s proposed co-conspirator statements. The government has alleged that certain witnesses are alleged co-conspirators including Shilo Gifford, Shaya Jones, Scotty Be, Montegua Presbury and Derek Ascherin. All of the statements sought to be introduced are merely statements of alleged buyer-seller conversations and do not fit the requirements of of admissibility under 801(d)(2)(E), ie. (1) that a conspiracy existed, (2) that the declarant and the defendant were both members of the conspiracy, and (3) that the statements were made in the course of and in furtherance of the conspiracy. There are no statements indicating the defendant agreed to nor joined in any attempt to redistribute the drugs. There is further no evidence that a conspiracy existed between any of these individuals and the defendant.

See *United States v. Caldwell*, 589 F.3d 1323, 1329 (10th Cir. 2009) (holding government must show "the alleged coconspirators were interdependent," meaning they "inten[ded] to act together for their shared mutual benefit within the scope of the conspiracy charged" (internal quotation marks omitted)). Thus, "[w]e . . . consider whether the activities of the alleged coconspirators were advantageous to the activities of other coconspirators, or the success of the venture as a whole." *United States v. Rutland*, 705 F.3d 1238, 1250 (10th Cir. 2013). *United States v. Butler*, 20-8037 (10th Cir. Nov 22, 2021). Here, there is no evidence the alleged co-conspirators were interdependent. Officer Sanne testified at the hearing that there was no evidence of any of the alleged co-conspirators furthering the conspiracy. He also testified that other than their statements, there is no additional evidence of furthering the alleged conspiracy.

WHEREFORE, Defendant objects to the admission of the government's proposed admission of co-conspirator statements. Defendant further objects to any proposed introduction of co-conspirator statements as responses to the admission of a party opponent.

DATED this 22<sup>nd</sup> day of October 2023.

s/ Dion J Custis  
 Dion J. Custis 6-2674  
 Attorney at Law  
 400 East 20<sup>th</sup> Street  
 Cheyenne, WY 82001  
 (307) 638-2442  
 Fax: (307) 638-2443

#### CERTIFICATE OF SERVICE

This Motion was served on all parties electronically.

s/Dion J.Custis

Dion J. Custis